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Senate

The Senate met at 2:30 p.m. and was called to order by the Honorable ROB PORTMAN, a Senator from the State of Ohio.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, unto whom all hearts are open, all desires known, and from whom no secrets are hidden, continue to be our refuge and strength. Guide our Senators. Let Your peace rule in their hearts. May Your Spirit dwell in them richly, imparting Heaven's wisdom. Lord, give them steadfast hearts, which no unworthy faults can drag downward.

Lord, bless America. Make her a channel of justice, peace, and goodness to our world.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. HATCH).

The senior assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 8, 2018.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROB PORTMAN, a Senator from the State of Ohio, to perform the duties of the Chair.

ORRIN G. HATCH,
President pro tempore.

Mr. PORTMAN thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session and resume consideration of the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Kurt D. Engelhardt, of Louisiana, to be United States Circuit Judge for the Fifth Circuit.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

HONORING FALLEN U.S. CAPITOL POLICE OFFICERS

Mr. MCCONNELL. Mr. President, an important tribute took place in the Capitol this morning—the fifth annual memorial service for the four U.S. Capitol police officers who have died in the line of duty. Sergeant Christopher Eney, Officer Jacob Chestnut, Detective John Gibson, and Sergeant Clinton Holtz were remembered with a wreath-laying in the Capitol Visitor Center.

This year's ceremony marked the 20th anniversary of the 1998 Capitol shooting, when both Officer Chestnut and Detective Gibson were killed. Next week is National Police Week, and I will have more to say about the heroism of the professionals who put themselves in harm's way every day to keep others safe. Today the Senate honors the memories of these four fallen heroes.

Mr. President, on another matter, yesterday, the Senate advanced the nomination of the first of this week's judicial nominees, Judge Kurt Engelhardt. Those who join him on this latest slate for consideration are each well qualified. Each has received thorough examination from the Judiciary Committee, and each stands ready to serve on the Federal bench.

NOMINATION OF MICHAEL BRENNAN

Following the confirmation of Judge Engelhardt, the Senate will proceed to the consideration of Michael Brennan of Wisconsin to serve as a U.S. circuit judge for the Seventh Circuit. Mr. Brennan's nomination comes as only the latest distinction in a career marked by truly impressive legal accomplishments. In both public service and private practice, this graduate of Notre Dame and Northwestern University School of Law has developed a reputation for a keen legal mind and an unwavering commitment to the rule of law.

According to current and former peers on the Milwaukee County Circuit Court, Mr. Brennan has ''the mind, heart and soul of a great jurist'' and a ''keen understanding of the legal issues in sophisticated and complex litigation.''

Like Judge Engelhardt, Mr. Brennan has my full support, and I encourage my colleagues to join me in voting to confirm another fine nominee this week.

TAX REFORM

Mr. President, on a final matter, it seems that every day brings another piece of good news for middle-class workers and families and, like clockwork, another desperate attempt by

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

my Democratic colleagues to convince everyone that this growing tide of new prosperity is somehow a bad thing.

In the last few weeks alone, the percentage of Americans who are unemployed, underemployed, or who have given up finding a job has dropped to a 17-year low. Recently, new jobless claims reached their lowest level since 1969, and the total number of Americans who are receiving unemployment benefits is as small as it has been since—listen to this—1973.

Let me put that another way. Notwithstanding 45 years of population growth, there are fewer total Americans receiving unemployment benefits under President Trump and this Republican Congress than at any other point under Presidents Ford, Carter, Reagan, Bush, Clinton, Bush, or Obama. We all know economic indicators can be volatile, and Washington is far from the only force behind them. In fact, getting the Federal Government out of the way is often the solution. The headwinds that blew in the face of American entrepreneurs and small business owners for 8 years have died down. Now the wind is at their backs.

In December 2017, after just 1 year of Republican policies, optimism among American manufacturers hit the highest level ever recorded. In large part, that is because Washington had gotten out of their way. Back in 2013, more than 75 percent of manufacturers said an unfavorable business climate from taxes and regulations was a top concern. Now fewer than 19 percent have that worry. This is a real-life experiment in two different governing philosophies.

For 8 years, Democrats operated from the leftwing premise that businesses need to lose in order for workers to win. So they raised taxes, passed mammoth new regulations like Dodd-Frank and ObamaCare, and let runaway agencies like the EPA run roughshod over American businesses. That is what got us such lackluster results, year after year.

Fortunately, Republicans have taken a different approach—one that doesn't assume that Washington bureaucrats know best. We know that American workers can only thrive if thriving American businesses are creating jobs and raising wages. We have worked to enact an inclusive opportunity agenda to bring greater prosperity to everyone, and that is exactly what is beginning to happen.

From Florida to Indiana, Fifth Third Bank is raising its minimum wage for employees. Kroger is planning to hire 600 new associates across my home State of Kentucky. Nationwide data from the Bureau of Labor Statistics show that the amount employers spend on salaries and benefits grew more in 2017 than in any calendar year under President Obama—two different philosophies, and just 16 months in, two very different outcomes for American workers and middle-class families.

The ACTING PRESIDENT pro tempore. The majority whip.

NOMINATION OF GINA HASPEL

Mr. CORNYN. Mr. President, when I was a kid, I used to like to read the comics in the newspaper every day. Usually, it was some interesting caricature of real life that was particularly funny. Yet the sorts of caricatures we have been seeing in the past few days about the President's nominee to the CIA are not funny and are not comical at all. What we have seen is a gross caricature of this woman's distinguished 33-year career. I am talking about Gina Haspel at the CIA.

Our Democratic colleagues are stuck in the past. They are trying to, really, tag her with some of the more controversial episodes during the aftermath of 9/11. The fact is, that is a caricature of her three decades of hard work and service in spanning the globe while working in the intelligence community and trying to keep America safe. They, of course, need to get their facts straight regarding the episodes they complain about. The fact is that they have all been investigated, and Gina Haspel has been exonerated. They are wrong to ignore everything else she has done in her career, as well as the fact that she will be the first woman Director of the Central Intelligence Agency—someone enormously popular with the rank and file in her having come from within their ranks.

The particular episodes that we will hear talked about tomorrow at the open hearing before the Senate Select Committee on Intelligence involve enhanced interrogation techniques that were used in isolated instances in the days immediately following 9/11. These programs were, of course, vetted by all appropriate legal advisors and were depended upon in good faith by intelligence officers and the Department of Defense. Congressional leaders were briefed on them and had no objection because the threat immediately after 9/11 was that al-Qaida had been meeting with some Pakistani nuclear scientists, perhaps with the objective of getting a nuclear device that they could use to kill more Americans and more innocent people. This was, truly, an emergency situation, and policymakers were demanding that our military and intelligence community do everything they could to prevent another 9/11 attack.

It is fundamentally unfair for some to want to change the rules after the fact now that we are feeling safe and secure, and it is obscene to hold intelligence officials responsible for policy decisions that they did not make but which they were charged with executing. We expected them to be executed—''we'' being the policymakers in the executive and legislative branches.

I mentioned the declassified 2011 Michael Morell memo yesterday, which exonerates Ms. Haspel from this allegation that she somehow played a part in destroying videotapes of enhanced interrogation. In the memo, Morell, who was then the Acting Director of the CIA, found no fault with Ms. Haspel's performance and indicated that she acted appropriately in her role as it related to carrying out her supervisor's orders. Again, she was not the one who actually destroyed the tapes but, rather, acted on her supervisor's instructions to draft a cable that she expected to be vetted with the appropriate authorities and policymakers within the CIA structure.

Mr. Morell himself added a statement following the memo's release that Ms. Haspel did not destroy the videotapes of the enhanced interrogation techniques that were used on post-9/11 detainees. He said that she did not oversee their destruction either, and she did not order their destruction.

Nevertheless, I will bet one is going to hear a lot about this at tomorrow's hearing before the Senate Intelligence Committee. It is unfair to focus on an isolated event in an attempt to try to suggest that she acted inappropriately when her supervisors, including the Acting Director of the CIA, found no fault with her actions, and any allegations that she bore personal responsibility for destroying the videotapes have been affirmatively disproven.

We know from her career timeline that was produced by the CIA that Ms. Haspel spoke French and Spanish prior to joining the CIA and learned Turkish and Russian. That is interesting because, in fact, we can't know a lot in a public setting of some of her classified activities as a member of the Central Intelligence Agency. That is the nature of the work, that being that intelligence officers willingly accept the responsibility to keep classified information secret so as not to expose sources and methods that would endanger lives and undermine our ability to get intelligence to our policymakers so they can make good decisions.

Clearly, she is a student of languages and cultures around the world—exactly the kind of person you would want to lead an agency that operates internationally, like the Central Intelligence Agency. We know from declassified documents that she had field assignments in Africa and Europe in the late eighties and nineties and then went on to become station chief at multiple locations before becoming the Deputy Director of the CIA. When she worked abroad in the eighties, she encountered none other than Mother Teresa and helped arrange a phone call between Mother Teresa and President Reagan. Then she visited a local orphanage with the famous nun.

Of course, as I said, we can't talk about all of the details of her invaluable years of service here on the Senate floor because much of that information remains classified. Indeed, tomorrow, we will have an open, declassified setting, followed by a closed, classified setting so members of the committee can get answers to their questions. Yet we do know about some of the successes that the CIA and the U.S. Government achieved during the 30-plus years she served, and some of those are worth mentioning here.

I am talking, first and foremost, about killing al-Qaida's key leaders and undermining the terrorist group's operations. We, of course, remember the raid that killed Osama bin Laden 7 years ago, which was the culmination of many years of advanced intelligence operations by people just like Gina Haspel. The CIA is responsible for collecting the dots and then connecting the dots so that policymakers can make important decisions, as in President Obama's decision to take out Osama bin Laden once he had been located. The CIA and Gina Haspel deserve tremendous credit for the indispensable role she and they played.

There are also things like the disruption of Najibullah Zazi's plot to bomb the subway in New York in 2009—another major intelligence and law enforcement success. An al-Qaida recruit, Zazi trained with the group in Pakistan and returned to the United States to build explosives for what could have been a devastating attack. According to news reports, it was through our intelligence collection efforts that we identified Zazi and that he was eventually arrested and convicted. The CIA is involved in far more than just counterterrorism operations. It deserves credit for all other equally important work, as well, some of which Ms. Haspel and her colleagues, undoubtedly, participated in.

We know the intelligence community targets all aspects of international criminal organizations, for example, and, of course, there are many more successes that will never see the light of day because those wins must be kept secret so that ongoing operations and sources that supply information and tactical methods are protected so they can remain useful in the future.

As Jane Harman—a 9-term former Democratic Member of the House of Representatives—wrote not long ago:

> The [Intelligence Community] has been the tip of America's spear for decades. Selfless men and women have put their lives on the line—often doing work their families are unaware of—to keep us safe, and they have. Yes, there have been some tragic failures, but far more impressive successes.

That is from one of our former Democratic colleagues. Her words, of course, apply to Ms. Haspel's career as much as they do to any other intelligence professional's.

Ms. Haspel has put her life on the line to keep us safe, not for the glory, because most of what she has done has happened undercover in a way that does not reveal important sources and methods or expose other people to retaliation or attack. When we consider her nomination this week, we must see it in the light of all of the CIA's successes, not as a caricature and misrepresentation of a couple of events that occurred post-9/11. Men and women like her do what they do not because of the notoriety. It is just the opposite. They do it because they love their country and want to prevent it from harm. Ms. Haspel is no exception, and she is deserving of our profound appreciation. To demonstrate that appreciation, we need to get her confirmed.

PRISON REFORM

Mr. President, one other thing on my mind today is prison reform.

Last week, my colleagues Congressmen COLLINS and JEFFRIES announced they had reached a bipartisan deal that will be marked up tomorrow in the House Judiciary Committee. I filed the same revised bill in the Senate yesterday with Senator WHITEHOUSE, our Democratic colleague from Rhode Island. I have been focused on this issue of prison reform for some time, along with a number of our colleagues on both sides of the aisle, and now it has gotten some real traction thanks to President Trump and a roundtable he hosted at the White House earlier this year.

More than 11 million people go to jail each year in the United States, and there are currently 2.3 million people in confinement. Conservatives should be concerned by those statistics for multiple reasons. For starters, the vast majority of people who end up in prison, of course, eventually reenter society. That is something we should be concerned about no matter where we stand on the ideological spectrum because people in prison will typically get out of prison. The question is: Will they be prepared for a life of crime or will they be prepared to enter a lawful society and contribute as law-abiding members?

For too long, our prisons have simply been warehouses. They have just warehoused people and not prepared or helped them to reenter society by teaching them the skills and giving them the training they need to become productive. These people leave prison and often return to a life of crime. Many have drug or alcohol addictions. Many of them lack the basic education or skills they need in order to get jobs in a lawful society.

We believe that the revolving door of recidivism—going to prison, getting out of prison, ending up back in prison—must end. Incarceration is expensive and separates offenders from their families. In other words, there is more than just the person behind bars who pays the price when someone goes to prison. We need to consider the families who are separated from their loved ones who suffer as well. This, of course, adds stresses that we can only imagine—single parenthood for those left behind and the heightened challenges of raising children as single parents in individual households.

States like Texas and others across the country have used prison reform to tackle their recidivism rates and have improved lives, lowered crime rates, and saved money too. I am glad that the legislation the House will mark up this week mirrors Texas reforms.

Among its other provisions, the bill will increase the number of good time credits for good behavior in prison—a good incentive for people to cooperate and behave while in prison. It will limit the use of restraints on pregnant prisoners, which seems entirely appropriate, and it will improve audits to reduce or eliminate prison rape. Prison guards will be required to receive so-called de-escalation training, and the Federal Prison Industries will be able to sell products to private nonprofit organizations much more easily so that inmates will be able to learn skills they can use productively while they are still in prison and that they can use once they leave prison.

In conclusion, I look forward to a bill that will have broad bipartisan and bicameral support not only by the House but by the Senate and accomplish this important goal.

Some of the sentencing reform legislation that I and others have previously supported has proved to be so controversial that we have been unable to get it passed here in the U.S. Senate because of there being a lack of support for that combination of sentencing reform and prison reform. What we have tried to do in a way that, I believe, is entirely pragmatic and appropriate is to take the first step on prison reform and get that passed by both Houses and signed by the President. Then we can continue our work on other aspects of criminal justice reform following that success.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

REMEMBERING MICHAEL BEAVER

Mr. MERKLEY. Mr. President, we have all heard the sad news. While we were back in our districts last week, our Assistant Parliamentarian, Michael Phillip Beaver, passed away unexpectedly at the very young age of 39. Family and friends gathered this morning to celebrate his life.

Born in Mount Pleasant, he was the son of Linda Susan Beaver and William R. Beaver. He was a graduate of Saint Vincent College, where he studied political science with a minor in graphic design, and he earned his juris doctorate from the Ohio State University Moritz College of Law. He was a member of the Ohio and the California State Bar Associations.

Most recently, he served here in this Chamber as the Assistant Parliamentarian. Prior to that, he served as the deputy legislative counsel for the State of California. Aside from being a brilliant attorney, Michael was passionate about hockey and music. He was a talented cook, an avid gardener, and a gifted artist.

He was a loving husband to his wife, Gilda, and was a caring, fun, and patient father to his two young boys, Bradley Dastan Beaver, age 3, and Connor Milad Beaver, age 2.

It is hard to believe that an unexpected medical condition could end his life so soon at the age of 39. He was contributing so much to the United States and so much to his family. We will greatly miss him here as I know he will be missed by a very wide expanse of family and friends and community.

Mr. President, I come to the floor to address one aspect of our ''we the people'' Nation. In writing the Constitution, our forefathers put those words, ''We the people,'' in supersized font, so even if you are far away and you can't read the fine print, you know the mission statement of our Constitution. It was all about, as President Lincoln summarized, a ''government of the people, by the people, [and] for the people,'' always intended to be the opposite of governments by and for the powerful.

Yet what have we seen in 2017? Much of the year was spent on a healthcare bill designed to destroy healthcare for some 22 to 30 million Americans. That is not government by the people or for the people; that is government by and for the powerful.

We saw a tax bill that borrowed $1.5 trillion from the people of the United States—which our children will have to repay—and gave it to the wealthiest Americans. That is not government by and for the people; that is government by and for the powerful.

We saw the theft of a Supreme Court seat for the first time in our history—a Supreme Court seat sent when it was vacated by the death of Antonin Scalia from one Presidency to the next, more than a year in the future in order to sustain a 5-to-4 Court decision called Citizens United, which allows a powerful America to spend unlimited sums, contaminating our political system with hundreds of millions of dollars, corrupting this Nation. That is not government of, by, and for the people; that is government of, by, and for the powerful.

Now we see the ongoing effort to pack the courts. Although I have heard complaints from some of my Republican colleagues about the slow pace of nominees, we see that the pace is very fast compared to the pace that existed for President Obama. For the first 14 circuit court nominations, they waited under President Obama an average of 251 days, but under President Trump, in less than half the time at 125 days—a breakneck pace—we have seen more nominees confirmed. If we compare from the start of the Presidency to this far into the Presidency under President Obama, we had a total of 21 nominees—9 circuit court nominees, 11 district court nominees, and 1 Supreme Court nominee, totaling 21. We see that under President Trump there are confirmations for 15 circuit court nominees, 17 district court nominees, and the filling of a Supreme Court seat, a stolen seat. There are 33—12 more—and more than 50 percent faster. So the argument that anything is being slow-walked is completely false.

We see all kinds of efforts, though, to rush nominees through without proper consideration. Last year, we had cloture votes on four circuit court nominees in a single week. We had cloture filled on three nominees within hours of being reported out of committee—and not reported out of committee unanimously but with divided votes. We know that when something comes out of the committee, there needs to be time for the rest of the body to be able to exercise their efforts to understand the background of that nominee. Often new information is turned up. For example, with Brett Talley—nominated for the district court—after he came out of committee, then it became known that he had written controversial commentaries defending the KKK, and he had belittled the Sandy Hook tragedy where little children were slaughtered. We found that out after he came out of committee. Yet cloture is being filed right after nominations come out of committee. We even had an individual who was rated ''not qualified'' by the American Bar Association. That, my colleagues, is rare.

The tradition of bipartisanship and cooperation involving the blue slip goes back a long way—since about 1917, a little more than a century. Senator Thomas Hardwick objected to President Wilson's district court nominee. He wrote on a blue slip of paper, saying: ''I object to this appointment—the same is personally offensive and objectionable to me, and I can not consent to the confirmation of the nominee.'' Thus began the blue-slip tradition of courtesy and respect for the viewpoint of Senators from a variety of States.

Under President Obama the blue slips were honored, whether they came from a Democrat or from a Republican. In fact, 18 of President Obama's nominees were blocked by Republican blue slips because they were honored by the Democrats.

In 2009, we had a letter from my Republican colleagues, and it said about the practice of observing senatorial courtesy that ''we, as a Conference, expect it to be observed, even-handedly and regardless of party affiliation.'' Isn't the sentiment expressed in 2009 appropriate for 2018?

Let me state that in the history of these 100 years, not a single nominee has been approved over the objection of two Senators from the relevant State. The former Republican chairman, Senator HATCH, said:

> Weakening or eliminating the blue slip process would sweep aside the last remaining check on the President's judicial appointment power. Anyone serious about the Senate's constitutional ''advice and consent'' role knows how disastrous such a move would be.

I would like to know how many folks in this Chamber are still serious about the Senate's constitutional advice and consent role.

Chairman GRASSLEY said in 2015:

> This tradition is designed to encourage outstanding nominees and consensus. . . . I appreciate the value of the blue-slip process and also intend to honor it.

He did honor it while President Obama was in office, but now, apparently, the world is a different place. Look what is happening on the Senate floor this week. We have a nominee, Michael Brennan, whose views on women's rights, civil rights, education, criminal justice, sexual discrimination, and judicial precedent are out of the mainstream. His nomination has moved forward despite the opposition and over the objections of a home State Senator. This is a seat, by the way, that is open because the blue-slip process was honored. The objection through a blue slip was honored under President Obama.

There are more extreme nominees coming through. So if we think back to that point made by Senator GRASSLEY that ''the tradition is designed to encourage outstanding nominees and consensus,'' we are seeing that the decision not to honor it is doing the reverse.

There is Kurt Engelhardt, a nominee for the Fifth Circuit. His record on the district court is deeply troubling, particularly when it comes to cases regarding sexual harassment, discrimination, civil rights, discriminating against women in the workforce who choose to have children—a right that should be open to every American woman without fear of losing one's job. Yet, last night, this body voted for cloture and is sending his nomination to a final vote.

We have Joel Carson, nominee for the Tenth Circuit, who has spent most of his career deeply embedded in advocating for fossil fuel interests. That is a huge conflict of interest for being able to weigh in as a judge on any issue regarding energy.

Then we have the case in Oregon. The chairman of the Judiciary Committee has scheduled a hearing for Mr. Ryan Bounds tomorrow, despite the fact that Senator WYDEN and I have not returned our blue slips. Should this nomination come forward to this floor and be confirmed, this will be the first time in the history of the blue slips that the combined objections of both home State Senators have been ignored.

One might ask: Why is it that Senator WYDEN and I feel so strongly about this particular nominee? Well, first, the White House didn't consult with us. They brought him in for an interview and decided they were going to nominate him without consulting the home State Senators. Any Member of this body who wants to stand up for consultation would stand against this nomination. Oh, the White House says that they consulted. They have a very strange definition of consultation. I think they mean it to say that they informed us about their decision. We asked the White House to stand aside until our committee back in Oregon had completed its work, but they chose not to. That is not consultation.

There are the inflammatory writings of this individual regarding the rights of workers, people of color, and the LGBTQ community. The Alliance for Justice said in their report on this nominee, Mr. Ryan Bounds, that his ''writings reveal strong biases that call into question his ability to fairly apply the law and maintain confidence in the

justice system's ability to dispense even-handed justice to all.''

Shouldn't that be the heart of the nomination process, that we make sure we are sending forward individuals who add to the integrity of our judicial system, not individuals who take away from it?

During his interviews with our committee out in Oregon—this committee continued its work, even though the President nominated him without waiting for the committee to finish its work. The committee asked him if he had controversial writings or events in his life that he needed to disclose, and he said that he did not. He did not disclose them. This is not an ancient failure of integrity; this is an immediate, recent past failure of transparency and integrity.

The letter we received from the chair of Oregon's Federal Judicial Selection Advisory Committee states:

I am writing to you as Chair of the [Oregon] Federal Judicial Selection Advisory Committee. I have reviewed a recent piece in the Wall Street Journal titled ''Give Amnesty for College Writings.'' The piece concerns Ryan Bounds, a candidate for the Ninth Circuit Court of Appeals vacancy, and specifically states that our committee recommended him. The piece notes Mr. Bounds' writings, but fails to point out Mr. Bounds never disclosed those writings to the committee at any point in the interview process. Since that time, I have heard from four members of the judicial selection committee specifically with regard to this omission. I can say with confidence that those four committee members as well as myself would not have ranked Mr. Bounds as we did had we known about these deeply troubling writings.

Mr. Bounds' writings themselves are objectionable not only for the views they express, but for the intemperate and demeaning tone that he uses to express his opinion. Equally, if not more disturbing, Mr. Bounds failed to disclose these writings when specifically asked by the committee about his views on equity and diversity. Although he felt free to volunteer details about his life going back to childhood, he misled the committee in response to this important inquiry. For this reason, five of the seven committee members no longer recommend Mr. Bounds.

That is what we heard from the Oregon committee.

We have a responsibility to the institutions of governance of the United States of America, with the fundamental principle embedded in those three words: ''We the People''—government of, by, and for the people. We have seen a series of significant bills where it is the exact opposite of this: bills designed to destroy healthcare for millions of Americans, bills that put us deep in debt in order to deliver the proceeds to the richest Americans. It is perhaps the biggest bank heist in the history of the world.

Now we see an effort to sully the integrity, to damage the legitimacy of our courts. That is unacceptable, and we need to rethink our course and honor our responsibility to strengthen, not undermine, the beautiful architecture of our ''we the people'' Nation.

Thank you.

The PRESIDING OFFICER (Mr. HOEVEN). The assistant Democratic leader.

NUCLEAR AGREEMENT WITH IRAN

Mr. DURBIN. Mr. President, I think we should be honest with ourselves and the people around the world and present the reality of what Iran is today.

Iran pursues a host of dangerous activities around the world that threaten the United States, its interests, and its allies. It is fomenting a proxy war in Yemen. It supports Hezbollah and Hamas. It appears to be using its foothold in Syria to test Israel's defenses. And in tragic irony, Iran supports the Syrian butcher Bashar al-Assad, who has stooped to using chemical weapons and barrel bombs to kill his own people. How a regime like the Iranian regime—whose own people suffered under heinous chemical attacks from Iran during the Iran-Iraq War—can stand behind Assad and Syria is incredible.

Having said that, we entered into an agreement with Iran to stop them from developing a nuclear weapon. Despite all these other challenges and all the differences we continue to have with Iran, we said that—gathering together with allies around the world—we wanted to make certain that Iran did not develop a nuclear weapon. There were lengthy negotiations and agreements, which led to the nuclear agreement with Iran to stop its development of nuclear weapons. I think it was a critically important step forward because Iran with a nuclear weapon would be a danger not only to Israel and the Middle East but also to the world.

It was that agreement which I supported and which was overwhelmingly supported by Democrats in the Senate when President Obama negotiated it. The Republicans opposed it. The candidate for President on the Republican side, Mr. Trump, said that it was a terrible agreement, and he thought we should never have entered into it. He had all sorts of derogatory things to say about the Iran nuclear agreement. But the fact is, that agreement went in place and was implemented. International inspectors were sent into Iran. Those inspectors enforced that agreement and have reported to the United States—and personally to Members of the Senate, including me—repeatedly that Iran is complying with the terms of this agreement and is not developing a nuclear weapon. For all of the differences we have with Iran, the facts and the evidence are clear: They were living up to the terms of the nuclear agreement so that they would not develop a nuclear weapon and threaten Israel and that region of the world.

Despite the progress made by this agreement, today President Trump announced his decision to halt the waiver of sanctions related to Iran and the nuclear agreement—in essence, to step away from the agreement and to say that the United States will no longer be party to it. That nuclear agreement with Iran removed the threat of nuclear weapons being used to pursue destabilizing Iranian activities. Just imagine how hard and difficult it would be to push back on Iranian aggression if, in fact, they had a nuclear weapon. The purpose of the agreement was to avoid that possibility—the very agreement President Trump walked away from today.

Because of this agreement, Iran's nuclear weapon program has been stopped in its tracks. In fact, you have to go back over 10 years to find any plans being made in Iran in the past to even consider it. The agreement was working. International inspectors have unprecedented access to Iran to watch for cheating. Iran does not have a nuclear weapon or a quick breakout ability to make one. These are real accomplishments toward world peace.

We live in a dangerous world. President Trump's decision today will make it more dangerous. By eliminating U.S. participation in this agreement to stop the development of nuclear weapons in Iran, we run the real possibility that terrible things will follow—terrible things that will cost human life and cause even more misery around this world.

Let's be clear. That agreement clearly states that ''Iran reaffirms that under no circumstances will Iran ever seek, develop, or acquire any nuclear weapons.'' That is an unequivocal statement. And to ensure that Iran never does, the agreement provided for ongoing inspections by the International Atomic Energy Agency. They weren't just inspecting the obvious places; they were inspecting the entire supply chain that Iran would have to turn to to develop a nuclear weapon.

Ernest Moniz was Secretary of Energy under President Obama. He is a physicist by training. He has received global recognition for his expertise. He sat at the table because he knows what it takes to develop a nuclear weapon. He put into this agreement which President Trump is walking away from today the kind of access for inspection that gives us the assurance that Iran cannot cheat, and if they tried, we would catch them.

Anyone arguing that Iran is allowed to build a nuclear bomb under this agreement after a certain period is simply wrong and misleading the American people. I have met with IAEA Director General Amano several times. Each time, I was very blunt and direct with him: Tell me what your experience has been in Iran. Tell me, if your inspectors wanted to go through a certain door, inspect a certain installation, go inside a certain facility, were they stopped by Iran?

He told me: If we were stopped and protested, they opened the door. We have never had a failure of access.

That is what he told me repeatedly, over and over again. He said the same thing to Democratic Senators he spoke with—that Iran was in compliance with the nuclear agreement and that IAEA inspectors were able to resolve any

areas. Where they contested and said ''We should have access,'' they were given access.

I hope President Trump will actually read this agreement. I wish he had sat down and spent a few minutes with Inspector Amano before making this fateful decision today. I know it is probably good political theater for some to blast any international agreement or related effort that was taken up by President Obama, but let me remind my colleagues of other negotiations undertaken with troubling regimes that served our national security interest.

It was President John Kennedy who negotiated with the Soviets during the Cuban missile crisis, bringing us back from the brink of nuclear war.

It was President Richard Nixon who negotiated with the Chinese on normalizing relations, even while that Communist regime was providing weapons to the North Vietnamese who were fighting our soldiers.

Of course, who can forget that it was President Ronald Reagan who negotiated with the Soviets while that Communist nation had thousands of nuclear warheads pointed at the United States of America? They were occupying Eastern Europe, and they were supporting troubling regimes around the world. Yet President Reagan sat down and negotiated with them.

Let's recall how many on the right of the political spectrum savaged President Reagan for negotiating with the Soviets on nuclear arms reduction. Let me read an excerpt from the January 17, 1988, New York Times about the opposition President Ronald Reagan faced in negotiating an arms agreement with the Soviets—criticism eerily familiar to what we have been hearing today from President Trump. Here is what they said about President Reagan:

> Already, right-wing groups . . . have mounted a strong campaign against the INF treaty. They mailed out close to 300,000 letters opposing it. They have circulated 5,000 cassette recordings of Gen. Bernard Rogers, former Supreme Commander of the North Atlantic Treaty Organization, attacking it. And finally, they are preparing to run newspaper ads this month savaging Reagan as a new Neville Chamberlain, signing an accord with Hitler—
>
> Of his day—
>
> and gullibly predicting ''peace for our time.''

The conservative National Review's May 22, 1987, edition had a cover titled ''Reagan's Suicide Pact.''

While opposed by some at the time, I doubt few in this Chamber on either side of the aisle would look back today and say that President Reagan's negotiations with the Soviets and the eventual agreement weren't in the best interest of America's national security.

So here we are today with President Trump plunging us and our allies into uncertainty when it comes to an Iranian nuclear weapon and the credibility of America's word around the world. It is not very good timing if we seriously hope to bring peace to the Korean Peninsula by putting the American signature and name on the line in a negotiation to stop the development of nuclear weapons in that area of the world.

What will President Trump do if Iran restarts its nuclear weapon program? Is he prepared to face the prospects of another war in the Middle East—a war with nuclear weapons? Certainly we will have no inspectors there anymore if President Trump has his way, and that can only set us back and open the door to the possibility of a nuclear Iran in the future. Does that make America safer? Does that make the world safer? Of course not. Is this just about undoing what President Obama did, keeping some campaign promise, which, frankly, doesn't serve the best interest of peace in the world or our own national security.

Mr. Trump and my colleagues on the other side of the aisle who support this move and are unwilling to speak against it, the situation being created by walking away from the nuclear agreement with Iran is now in your hands, on your watch. I hope something good can come from this.

By all accounts, the American people overwhelmingly oppose what President Trump did today. The American people know we live in a dangerous world. They have heard over and over again about the prospects of a nuclear attack from North Korea. The notion that Iran would now develop a nuclear weapon does not make America feel any safer, and by a margin of 2 to 1, they tell President Trump: What you announced today was wrong. It does not make us any safer.

There have been many opportunities in this country to work together on a bipartisan basis on foreign policy. Historically, that was almost always the case—as it should be. Sadly, those days are behind us. Instead, now it is straight partisanship. If President Obama wanted it, President Trump happens to oppose it.

Look at the decision on the Paris climate agreement. That was an agreement reached by every nation in the world, and President Trump stepped away from it, saying: When it comes to climate change, the United States does not want to engage in this global conversation.

When it came to healthcare in the United States, President Trump said: I want to eliminate ObamaCare—eliminate the Affordable Care Act. Across the United States, we are now seeing dramatic increases in health insurance premiums because of President Trump's decision and the opposition by Members of Congress on the Republican side against the Affordable Care Act.

Now we are walking into a new territory. It is not just climate change; it is not healthcare; it is the safety of this world. It is a question about whether another nation will join the nuclear club—a nation we have plenty of differences with.

We had an agreement, a good one. It was brokered by a group of nations that were unlikely allies: China, Russia, Western European nations, and the United States. Of course, that is an unusual grouping, but they all agreed Iran should not have a nuclear weapon, and we moved forward with an agreement that was working until this President, just 2 hours ago, came before the American people and said the United States is walking away from that agreement.

Sadly, it is a reckless decision. It is a historic, tragic, and reckless decision, which runs the risk of allowing this country, Iran, to develop a nuclear weapon, threaten the region, and threaten the world. We live in a dangerous world, and we need a President who understands that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

NOMINATION OF MICHAEL BRENNAN

Ms. HIRONO. Mr. President, just before we left for last week's State work period, the majority leader filed cloture on six nominees for Federal circuit courts. He did not take this action in a vacuum.

Over the past year and a half, the majority leader and the Republicans in the Senate have joined with Donald Trump to try to pack our Federal courts with ideological judicial nominees who seek to change American law to match their partisan politics.

To accomplish this goal, the majority leader and Senate Republicans have also been eliminating procedural checks designed to ensure a fair and qualified judiciary. One of those checks is the blue-slip requirement—a mechanism for Senators to indicate their approval of nominees from their States.

In the past, when Senators objected to a judicial nomination in their home State, with almost no exceptions, the Judiciary Committee took no further action on that nominee. This was because the Constitution requires the President to get the advice and consent of the Senate when nominating judges.

Traditionally, this has been done by consultation with the home State Senators, but the majority leader and his Republican colleagues have largely abandoned this constitutional safeguard.

The Judiciary Committee has, though very rarely, scheduled hearings for nominees who lack one blue slip and whose home State Senators have returned negative blue slips.

Now, tomorrow, we will have a hearing for a Ninth Circuit nominee for whom no blue slips have ever even been returned. This has never happened in the modern history of the Senate, and it certainly was not the standard the majority leader and the chair of the Judiciary Committee applied to President Obama's judicial nominees.

It does not have to be this way. It is possible for home State Senators to confer with this administration and identify nominees acceptable to both

parties. For example, the Trump administration consulted with Senator SCHATZ and me about nominees to fill Hawaii vacancies on the district and circuit courts. We worked together to identify nominees who would be qualified and appropriate for these lifetime appointments—Jill Otake for the district court and Mark Bennett for the Ninth Circuit. We returned our blue slips, and the nominations are moving forward.

Abandoning the blue slip has nothing to do with overcoming so-called Democratic obstruction of President Trump's judicial nominees. This President has seen more circuit court nominees confirmed at a faster pace than any modern President. In fact, he has bragged about the pace of confirmation of his judges, including at the State of the Union Address.

Instead, abandoning the blue-slip process is about gutting checks and balances that would prevent Donald Trump from packing the court with ideologically driven judges as quickly as possible.

This week, we are considering one of those judges—Michael Brennan—whose nomination should not proceed. It has come to the Senate without the traditional advice and consent and over the strong objection of his home State Senator, Ms. BALDWIN.

In fact, in a particularly hypocritical twist, Mr. Brennan was nominated to fill a seat that has been kept open for over 7 years because the senior Senator from Wisconsin—a Republican—refused to return a blue slip for Victoria Nourse—President Obama's nominee for this very same seat.

At that time, Mr. Brennan—the nominee we are debating today—even wrote an op-ed in the Milwaukee Journal Sentinel in 2011 arguing in favor of respecting the blue-slip requirement on the Nourse nomination, saying:

> There are now two Senators from Wisconsin from different political parties, so to exclude Johnson and those citizens who voted for him would be a purely partisan move.
>
> Johnson represents millions of Wisconsin citizens, just as Sen. Herb Kohl does and Feingold did. In the same way those senators had their say in Nourse's first nomination, Johnson should have his say . . . [He] just wants to be heard and fulfill his constitutional duty of ''advice and consent.''
>
> Why can't Johnson, elected by the citizens of Wisconsin, participate in the selection of a judge for a Wisconsin seat on the 7th Circuit, as Kohl did?

Now that the shoe is on the other foot, Mr. Brennan is perfectly happy to have his nomination move forward over the objections of one of Wisconsin's Senators—Ms. TAMMY BALDWIN. This is the kind of hypocrisy we have come to expect from this administration, but I am also not surprised that Senator BALDWIN did not approve Michael Brennan, considering his troubling views on the way the law works. He should not be confirmed to a lifetime appointment on the Seventh Circuit.

In a 2001 op-ed for the National Review online, Mr. Brennan expressed dangerous ideas that call into question the duty of Federal judges to follow precedent. In his op-ed, Mr. Brennan casts doubt on whether judges have a responsibility to rely on how other judges before them interpreted laws, what lawyers call stare decisis. He wrote:

> If, after reexamination of a legal decision, a court concludes that the ruling was incorrect, stare decisis does not require that the rule of that case be followed. . . . Bush-appointed judges cannot accurately be labeled as activists for reexamining and following only correct precedent.

I interpret this op-ed to mean that a judge is free to determine whether he or she will agree that the precedent is correct. That is not how the law works. So we, in the Judiciary Committee, asked Mr. Brennan about this article during his confirmation hearing, and he came up with a clever explanation for it. He claimed his article asserted that judges are not necessarily bound by decisions of their own district or their own circuit. His article, he claimed, did not argue that judges can disregard precedent of higher, controlling courts. That is not what he wrote.

It is a convenient explanation, I admit, but it doesn't really hold up if you read his op-ed, where he clearly argues that President George W. Bush's judicial nominees should receive a pass for not following the law. This is what used to be called a confirmation conversion.

As with too many of President Trump's nominees, we are being told to ignore what we read or hear and set aside common sense. We are told by these nominees that what they talked about yesterday, think about today, wrote about yesterday—we are supposed to just ignore all of that. We are supposed to pretend that what someone has advocated for in the past, no matter how recent, will have no bearing on what they will do as a judge, but, remember, Judge Brennan has said he doesn't feel bound, according to his op-ed piece, by precedent.

Judges, as former Chief Justice Rehnquist said, do not come to their positions as blank slates. Each of them brings their own ideas and perspectives to the bench.

The majority leader recently said his most consequential political act—political act—was blocking Judge Merrick Garland's nomination to the Supreme Court. This is the same majority leader complaining that Democrats are now obstructing President Trump's judicial nominees. What could be more obstructionist than to totally ignore a nominee to the Supreme Court, no less?

The majority leader's unprecedented action prevented President Obama's well-qualified, centrist nominee from even having a confirmation hearing, let alone a vote, and it paved the way a year ago for Senate Republicans to jam through President Trump's conservative, ideological nominee, Neil Gorsuch—a Federalist Society-backed nominee—to provide a five-vote conservative majority on the Court that will continue to roll back individual rights for decades. President Trump put his stamp on this approach when he tweeted, ''Republicans must ALWAYS hold the Supreme Court.'' They are taking this same approach to all of our Federal courts.

I take the Senate's constitutional obligation to provide advice and consent on judicial nominees very seriously. We should be carefully considering a nominee's record to ensure they understand that courts are supposed to protect the rights of minorities.

The courts do not belong to Democrats or Republicans, despite the fact that Donald Trump has said Republicans must always hold the Supreme Court. He applies that, by the way, to the district courts as well as circuit courts. We must ensure that judges with lifetime appointments will treat all Americans—all Americans, and, I would say, particularly minorities and women—fairly in court. This is what the blue-slip requirement is really about. Home State Senators have a unique role in ensuring that the Federal judges serving in their States are highly qualified, understand the importance of applying the law fairly, and meet the needs of their community.

I urge Senate Republicans to reverse their ill-conceived decision to functionally eliminate the blue-slip requirement. We must all stand together to respect Senator BALDWIN's objections and oppose this nominee—who, to me, is the height of being a hypocrite—or all of us are at risk.

I yield the floor.

The PRESIDING OFFICER (Mr. FLAKE). The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The Senate is not in a quorum call.

The Senator is recognized.

Mr. LEAHY. Mr. President, we ''new'' Members don't think to look up at the lights. I apologize, but I appreciate being recognized.

SENATE'S BLUE-SLIP TRADITION

Let me be serious for a moment. I am the longest serving Member of the Senate, I am a former chairman of the Senate Judiciary Committee, and I feel obligated to speak up about the erosion of the norms and traditions that protect the Senate's unique constitutional role.

There are only 100 Senators. We should be the conscience of the Nation. We have a unique role, but, this week, we are witnessing a further degradation of the once-respected role of the blue slip in the judicial confirmation process.

Now, partisans who value only political expediency have argued that blue slips are mere slips of paper, but, instead, they represent and help preserve something far more meaningful.

For much of this body's history, blue slips have given meaning to the constitutional requirement of advice and

consent. They have protected the prerogatives of home State Senators. They are the ones who have to vouch for somebody from their State, and they are the ones who have the most at stake.

I remember when a dear friend of mine, then-the Senator from Arizona, Barry Goldwater, called and asked if he could drop by and see me. He had recommended a person to President Reagan for the U.S. Supreme Court. It was Sandra O'Connor. He explained how they had looked at a number of people, and she was the best. With respect for Senator Goldwater, I agreed, and I supported her.

They have also ensured fairness and comity in the Senate. In many ways, traditions like the blue slip have been central to what makes the Senate the Senate. All of us, whether we are a Democrat or Republican, should care about good-faith consultation when it comes to nominees from our own States. The reasons are both principled but pragmatic. We know our States better than anybody else. We know who is qualified to fill a lifetime appointment to the bench, and, critically, we know the one constant in life is impermanence. That is precisely why traditions matter.

When I became chairman of the Judiciary Committee at the start of the Obama administration, every single Senate Republican signed a letter making the case for the importance of this tradition, and requesting that it be respected during the new administration. Republicans said: We are unified. We must follow the blue-slip tradition.

I didn't need that reminder. Under my chairmanship, during both the Bush and the Obama administrations, I respected the blue-slip tradition without exception, even when it was not politically expedient, even when I was attacked for protecting a Republican Senator's prerogative. I faced pressure from my own party's leadership to hold hearings for President Obama's nominees who had not received blue slips from Republican Senators. I was criticized by advocacy groups and even the editorial page of the New York Times.

I resisted such pressure. I did so because I believed then, and I still believe now, that certain principles matter more than party. It was certainly what every single Republican said they agreed with when President Obama was President. Not all Judiciary chairmen followed the same blue-slip policy as I did, but Chairman GRASSLEY did follow the same policy, at least when there was a Democrat in the White House. Last Congress, no judicial nominee received a hearing without both home State Senators returning positive blue slips. This Congress, coinciding with a change in the White House, there has been a change in the blue-slip policy. What was sacred to Republicans for the Democrats is not sacred to the Republicans for Republicans.

Tomorrow, the Judiciary Committee will hold a hearing for a nominee in the Ninth Circuit, Ryan Bounds. He is opposed by not just one but both of his home State Senators. If Mr. Bounds is ultimately confirmed, it will mark the first time in the history of the U.S. Senate that a judicial nominee is confirmed with opposition from both home State Senators. It is nothing we ever thought possible with Republican or Democratic Presidents because it would have been too partisan. It would have destroyed what is best for the Senate, would destroy the comity of the Senate, would destroy the ability for Senators to represent their home State.

Also, this week, the full Senate will consider the nomination of Michael Brennan to the Seventh Circuit, over the objection of home State Senator TAMMY BALDWIN. Mr. Brennan's nomination was not even supported by the bipartisan Wisconsin Federal Nominating Commission. This is a nominating commission made up of Republicans and Democrats. They did not support this nomination. For years, this has been a longstanding requirement for potential nominees of the Federal bench in Wisconsin, and because the bipartisan commission couldn't support him, it is no wonder Senator BALDWIN cannot, in good conscience, return her blue slip.

Many of us have established processes. I have. I have a bipartisan process in my State. Many have established these processes to vet and recommend nominees in our home State. Yet somehow Mr. Brennan was nominated, and he may be confirmed this week, even though it ignores a bipartisan commission.

Make no mistake, this kind of a confirmation would do lasting damage to the Senate's traditions, would do lasting damage to the Senate I love, would do lasting damage to a Senate, which I served for almost 44 years.

My concern is not about a mere piece of paper. My concern is, we are failing to protect the fundamental rights of home State Senators—Republicans and Democrats alike—and we are failing in our constitutional duty to provide our advice and consent. This is a unique requirement the U.S. Senators have—advice and consent. There are 100 of us. Four hundred and thirty-five House Members don't have this; we do.

Mr. Brennan's nomination makes a mockery of the blue-slip process. It makes a mockery of the time-tested process that home State Senators have abided by in Wisconsin for decades—under both Republican and Democratic administrations, and that should concern all of us.

I understand the pressure on my Republican colleagues to help a President from their own party to fill judicial vacancies; even a President who attacks the very legitimacy of our judiciary, who tweeted attacks against members of the Federal judiciary. The dilemma is that yielding to such pressure—undermining a Senate tradition simply due to a change in the White House—will do lasting damage to the integrity of this body. The Senate should never function as a mere rubberstamp for nominees seeking lifetime appointments to our Federal judiciary.

Some may dismiss these warnings. I served in the Senate long enough to know that partisan winds tend to change direction. Inevitably, the majority becomes the minority. It has happened several times since I have been here. The White House changes hands. That has happened several times since I have been here. Then, the shoe is on the other foot, which is precisely why maintaining a single, consistent policy is so critical.

I urge my fellow Senators of both parties to consider the damage we are doing to this body by abandoning one of the few remaining sources of bipartisan good will in our judicial confirmation process. A vote for Mr. Brennan is a vote to abandon our ability to serve as a check on not just this President but any future President of either party. Chasing expediency provides fleeting advantage. It inflicts lasting harm on this body, and it is within our power to put a stop to it.

I urge all my Senate colleagues to ensure that home State Senators are provided the same courtesies during the Trump administration the home State Senators—both Republicans and Democrats—were provided during the Obama administration. For that reason, I ask my fellow Senators to oppose Mr. Brennan's nomination unless he has bipartisan support from his home State.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, first of all, I want to thank the distinguished Senator from Vermont, who has been such a role model to me since I came to the Senate—we started working together on technology issues and worked together on so many matters dealing with appropriations and finance—for all his counsel, not just on this but over the years. I thank him for the courtesy of being allowed to go next.

NOMINATION OF RYAN BOUNDS

Mr. President, there is now a vitally important debate happening on the Senate floor with respect to judicial nominations. What is clear to me is, the majority is now chipping away at a century of bipartisan tradition that has protected the interests of those in our home State and served as a check on the power of the Executive. It is the Senate bowing down to the White House, derelict in its constitutional responsibility to provide or withhold advice and consent on nominees. In my view, this is a dangerous mistake that is going to have harmful consequences for decades.

Today, the debate at hand is over the mishandling of the nomination of Michael Brennan to the Court of Appeals for the Seventh Circuit. This could be the first time in decades that a judicial

nominee is confirmed over the objection of a home State Senator. Tomorrow, the Senate Judiciary Committee is going to throw out the window a bipartisan practice that dates back more than a century when it holds a hearing on the nomination of Ryan Bounds to sit on the Ninth Circuit Court of Appeals. It goes without saying that individuals who are up for a lifetime seat on a powerful Federal court must be forthcoming and truthful in the nomination process. My view is, Ryan Bounds hasn't even cleared that low bar. Mr. Bounds misled the independent committee that considers potential nominees in Oregon by withholding inflammatory writings that reveal disturbing views on sexual assault and on communities of people who are vulnerable and disadvantaged.

He has had ample opportunity to clean up this mess, express remorse, and explain how his views have changed, but I haven't seen it. The comments I have seen suggest Mr. Bounds views this as a matter of poor word choice and youthful indiscretion—an issue he can almost dismiss with a small wave of the hand. In my view, that is wrong, he is wrong, and an individual up for a lifetime seat on a Federal bench has an obligation to do better than that. Yet his nomination has moved forward anyway.

This action by the majority—what will happen tomorrow unless common sense and good will and tradition prevail tonight—will throw in the dustbin a century of bipartisan tradition. Tomorrow will cheapen the advice and consent role of the U.S. Senate, and this body will cede power to the executive branch.

First, to explain what I mean, I am going to discuss the practice we have maintained in Oregon with respect to judges. When there are vacancies on the bench, Oregon Senators convene an independent committee of Oregonians from all over the legal community to select and interview candidates for judicial nominations. The committee performs a thorough, statewide search, conducts rigorous interviews, and then recommendations are made to Oregon's two Senators. Senator MERKLEY and I review those recommendations, and we submit a short list to the President for his consideration. For us, this process is the core of what advice and consent is all about when it comes to judicial nominees. We even wrote to the current White House counsel very early on in the new administration—now more than a year ago—to make sure they were up to date about this longstanding Oregon practice.

As part of the work the independent committee does in Oregon, candidates are asked whether anything in their past would have a negative impact on their potential nomination. Any lawyer who has read up on a hard-fought nomination in the past ought to know that inflammatory writings about women, people of color, and LGBTQ Americans certainly qualify as potentially threatening to a nomination. Mr. Bounds, however, did not alert our Oregon committee to his writings. He said there was nothing to worry about. In fact, he highlighted his precollege days in an effort to paint a picture of diversity and tolerance, conveniently skipping over his later intolerant writings. My view is that Mr. Bounds misled the committee by this omission, and he was wrong to do so.

It was not until after the committee finished its work that these writings came to light. That is why five of the seven members of the independent Oregon judicial selection committee, including the chair, said that this would have changed their decision to include Mr. Bounds among the committee's recommended candidates. Yet the Trump administration and the majority on the Senate Judiciary Committee have moved forward with his nomination anyway in direct violation of our longstanding practices.

Here is the second tradition that could be thrown out, and it goes back yet further. Not once in more than a century has the Senate held a hearing on a judicial nominee without having input from either home-State Senator. This tradition has stood for 101 years and has benefited both sides as a check on the power of the President.

Let me briefly quote a letter that the entire Senate Republican Conference sent to the last President at the beginning of his term in 2009. They wrote that dating back to the Nation's founding, the Senate has had a ''unique constitutional responsibility to provide or withhold its Advice and Consent on nominations.''

They continued: ''Democrats and Republicans have acknowledged the importance of maintaining this principle, which allows individual senators to provide valuable insights into their constituents' qualifications for federal service.''

So, in 2009, when a Democrat was in the White House, my Republican colleagues stood firm on maintaining this tradition, and the Democrats did. The last administration and Democratic leaders here in the Senate respected the request of our Republican colleagues. There were no hearings on judicial nominations when neither home-State Senator had consented. Now the Republican majority is on the verge of breaking that practice, in lockstep with the White House, to seat a nominee when there are, in my view, serious red flags.

To my colleagues in the Senate, the White House might believe that providing advice and consent begins and ends with this body's rubberstamping whatever names are sent, and the majority in the Senate might be happy to go along with that. I believe that is the wrong way to go.

Neither Senator MERKLEY nor I have given our approval for this nomination to go forward. As I have noted in conversations with the chairman of the committee, we are not stonewalling, and we are not fishing around for any old reason to bring down a Republican nominee. We are honoring the bipartisan tradition that has stood for more than a century, and we are fulfilling our constitutional duties.

I have declined to give approval for a hearing because I believe Mr. Bounds purposefully misled the independent Oregon committee that reviewed his candidacy. He omitted information that was vitally important during a critical time of the vetting process. That cannot be dismissed, ignored, or wished away. It is a fact and, in my view, a fact that is a disqualifying one.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR AGREEMENT WITH IRAN

Mr. NELSON. Mr. President, the President just announced that the United States will withdraw from the Iran nuclear deal. The President says he wants a better deal. So do a lot of us. The fact is, we need to keep pressure on Iran with additional economic sanctions that will stop it from developing ICBM missiles. That was not part of the Iran nuclear agreement. We need to ratchet up the pressure on Iran in order to stop its ICBM missile program.

Pulling out of the Iran nuclear deal is a tragic mistake. It will divide us from our European allies, and it will allow Iran to build a nuclear weapon—a nuclear bomb—within a year, as compared to 7 to 12 years in the future if we stay in the agreement. I think keeping an atomic weapon out of a radical religious outfit like Iran, headed by an Ayatolla, is clearly in the free world's interest. Certainly, it is for the free world. Clearly, it is for the United States, as it is for all of our allies. That is why the United States had such broad support in an agreement that Iran not build a nuclear weapon. Pulling out of this agreement risks all of the unprecedented restrictions on Iran's nuclear program that are in place right now—the hundreds of visits by the IAEA, the International Atomic Energy Agency, and its ability to get in behind locked doors. Before this agreement, we never had that kind of insight into Iran. Now is the time to continue ramping up the pressure on Iran, not to back off, as pulling out of the agreement will cause us to do.

First things first, let's keep restrictions on Iran's nuclear program—the lessened enriched uranium, the complete cementing over of the plutonium plant, the ability to inspect and verify. Then what we ought to be doing is doubling down on Iran's ballistic missile program, on its regional aggression, on its support for terror, and on its human

rights violations. It was the tough U.S. and international sanctions that brought Iran to the table in the first place, and it was we in this Congress who enacted many of those economic sanctions.

To sum up, we need to put more pressure on Iran with additional economic sanctions to stop it from developing its ICBM missiles, and pulling out of the Iran nuclear agreement now is a tragic mistake. It will divide us from our European allies, and it will cause Iran to build a nuclear bomb within a year instead of preventing it from building one for at least 7 to 12 years. That seems, to me, to be a choice that we made at the time we entered this agreement. It seems to be all the more clear today that we ought to continue the agreement.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DAINES). Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, situated off the northeast corner of Australia lies one of the seven natural wonders of the world, a wonder that is visible from space—the Great Barrier Reef. Each year, around 2 million visitors come from around the globe to experience the Great Barrier Reef. They come to see hundreds of species of sharks, dolphins, fish, mollusks, whales, seabirds, and other marine life thriving in nearly 133,000 square miles of coral reef. Some of these coral structures are thought to date back as long as 25 million years. When Pope Francis spoke of the ''wonderworld of the seas,'' this is the kind of beauty and bounty he had in mind.

It is difficult to imagine something so expansive and ancient threatened so profoundly by one of Earth's more recent inhabitants—humans—but it is. The oceans are taking the brunt of our modern carelessness. They are warming, acidifying, and literally suffocating under our carbon dioxide emissions. They are fouled with our plastic garbage, and they are polluted with runoff from farming and storm water wash into the sea.

I have come to the floor before to plead that my Senate colleagues heed the warnings of our oceans. Those warnings are loud and clear and measurable. They are measurable with thermometers, tide gauges, and simple pH tests, and they are chronicled by the testimony of fishermen and sailors.

Today I wish to focus on that Great Barrier Reef. A healthy coral reef is one of the most productive engines of life on Earth. It is home to 25 percent of the world's fish biodiversity. The corals use calcium carbonate—a compound usually readily available in ocean water—to build their hard skeletons. These hard structures shelter the living coral polyps and undergird the entire ecosystem that depends on the reef. Without the corals, the whole thing collapses.

The living corals have evolved a symbiotic relationship with tiny photosynthetic algae called zooxanthellae. The algae live in the surface tissue of the corals. It is the algae that provide the color that you see healthy corals display. The corals' metabolic waste is converted by the algae back into food and oxygen for the corals, and, in turn, corals shelter the algae.

However, the range of pH, temperature, salinity, and water clarity within which this symbiotic magic takes place is fairly narrow. Get outside that comfort range, and the corals get stressed. When they are stressed enough, they begin to evict their algae. This is what is called ''coral bleaching.'' The corals whiten as they shed their colorful algae.

Of course, without the algae, corals can't live for long. The algae can resettle, and the corals can recover, but if the algae don't resettle, the corals soon die. That is what is happening in huge swaths of the Great Barrier Reef, and here is why.

As we have pumped massive quantities of waste CO_2 into the atmosphere, dramatically raising the concentration of carbon dioxide in the Earth's atmosphere, the oceans have absorbed approximately 30 percent of all of that excess carbon dioxide.

We recently broke a dangerous new atmospheric record, exceeding a monthly average of 410 parts per million of carbon dioxide in the atmosphere for the first time in human history.

For comparison, at the start of the Industrial Revolution, atmospheric carbon dioxide was around 280 parts per million. That is 280 not so long ago and 410 now, and 300 had been about the upper limit of carbon dioxide in the atmosphere for as long as human beings have been on this planet.

About a third of all of that added CO_2 gets absorbed by the ocean, and it is absorbed with a chemical reaction that makes the ocean more acidic. That is why we talk about ocean acidification.

At the same time that the oceans have been soaking up all of that excess CO_2, they have also been soaking up heat—lots of heat—roughly 90 percent of the excess heat trapped in the atmosphere by these greenhouse gases. As a result of all of that heat, the oceans are warming as they get more acidic, more often knocking the corals out of the conditions they need for that symbiosis to thrive.

We are only 1 year out from the massive bleaching that tore across the globe from 2014 to 2017. NOAA branded it ''the longest, most widespread, and possibly the most damaging coral bleaching event on record.''

This graphic shows how severe and pervasive the bleaching was. The light blue areas on the map, which you really don't see any of, represent the parts of the ocean that are under no stress. These are the continents. There is North America and South America. Over here is Australia. There is Asia. And the red parts are the oceans.

The lighter red is ''Alert Level 1'' areas, where heat stress led to significant coral bleaching. The deeper red is ''Alert Level 2'' areas, which experienced not only widespread coral bleaching but also significant coral die-off. This white box right here marks the Great Barrier Reef. You can see that severe coral bleaching in the northern edges of the Great Barrier Reef, and this was new. According to NOAA, these are areas where bleaching had never occurred before.

In 2016 scientists with the Australian Research Council's Centre of Excellence for Coral Reef Studies undertook extensive aerial and in-water surveys of the Great Barrier Reef to estimate the extent of the damage. Out of the over 900 individual reefs that were surveyed, only 7 percent of those reefs escaped bleaching, and 93 percent were hit. In the northern portion of the Great Barrier Reef, upwards of 80 percent of the corals were severely bleached.

When the researchers returned, they found that up to two-thirds of those corals in the northern section had died. The central and southern sections fared better but still saw corals dying.

A recent paper in Nature by Australian and NOAA researchers totaled the damage. The paper's lead author, Dr. Terry Hughes, told The Atlantic: ''On average, across the Great Barrier Reef, one in three corals died in nine months.''

In the northern section of the reef, researchers found that some species, such as staghorn and table corals, suffered what they called a ''catastrophic die-off.'' In total, about one-half of the northern range's corals died.

Dr. Hughes went on to say the Great Barrier Reef ''has transformed into a completely new system that looks differently, and behaves differently, and functions differently.'' That is climate change.

In an interview with Huffington Post, Dr. Hughes said the heat wave that caused the bleaching was so intense that some of the corals basically ''cooked'' and died quickly. Usually, if corals can't recover their algae after a bleaching event, they slowly starve to death. Some of the less resilient species crashed by up to 90 percent in the recent bleaching.

Dr. Hughes made clear to the Atlantic that human-caused climate change was the driving force behind this coral bleaching. Indeed, the title of his nature article is, ''Global warming transforms coral reef assemblages.''

Dr. John Bruno from the University of North Carolina said that the loss of the Great Barrier Reef's corals is ''like clear-cutting a redwood forest.'' He went on:

In 10 years, you're going to have a lot of stuff on the ground, but you're not going to have the old-growth forest back. Some of these corals were 10, 30 years old, but a lot of them were centuries old. In 100 years—if there is no more warming—they could return.

In 100 years, they could return.

Dr. Hughes and his colleagues, however, were less optimistic in their nature paper. They wrote: ''The most likely scenario, therefore, is that coral reefs throughout the tropics will continue to degrade over the current century until climate change stabilizes, allowing remnant populations to reorganize into novel, heat-tolerant reef assemblages.'' Remnant populations are all they expect to survive.

Researchers are trying to understand the consequences of losing so much coral in our seas. Obviously, if you harm the corals, you harm the reef; if you harm the reef, you destabilize life throughout the reef, and that is bad for oceans.

A recent paper in Global Change Biology found severe declines in the populations of the fish most connected with the corals hit hardest by the bleaching. So the cascade effect is already observed.

The Great Barrier Reef even sounds different. A study published last week in the Proceedings of the National Academy of Sciences compared the lively underwater cacophony of a vibrant Great Barrier Reef in 2012 with the quiet of bleached locations in 2016. The life that teems around a healthy reef decreased with the loss of the corals.

There are actually some open-ocean species, like juvenile clownfish—or the Nemos—that actually rely on sound coming off these reefs from all the life and all the feeding and all the activity and that actually use that sound to find reefs to go settle on. So this quiet of dying reefs makes their job of finding new homes harder.

Climate change makes the heat waves that spur coral bleaching more intense and also more frequent, leaving corals less time to recover before the next heat wave hits, and we may see the more vulnerable corals fail to recover at all as the waters warm too much for them to survive.

A study published earlier this year in Science looked at 100 tropical reefs and found that only 6 had avoided bleaching. Bleaching events that occurred in the past, once in a generation, now occur around every 6 years. As the Guardian summarized it, ''Repeated large-scale coral bleaching events are the new normal thanks to global warming.''

So what can we do about it? Scientists are working to better understand what makes certain corals more resilient and to try to use these lessons to protect more vulnerable species. But that research nibbles at the fringes of this global die-off. There is some localized work on things like sun shields to help protect shallow corals during peak heat. Senator MCCAIN and I visited efforts to rebuild shattered coral reefs in Indonesia, but these tiny efforts can't offset the global onslaught of climate change unless we move fast to address the real problem.

Australia announced last week that it would invest around $400 million in a patchwork of efforts to protect the Great Barrier Reef: increasing monitoring and enforcement, for instance; limiting pollution runoff from shore; trying to keep out certain invasive starfish; and trying to help restore lost corals. But the plan does not address the main culprit behind coral bleaching, and that culprit is climate change. Scientists noticed that omission, including the Australian Academy of Science, which pointed out the problem that the reef is ''highly vulnerable to climate change,'' and ''urge[d] the government to address the cause of the problem.''

The call of those scientists is a call that we, too, ought to heed. One of the great wonders of God's Earth is on its way to turning into a sandy relic because we are unwilling to say no to the fossil fuel industry. It is that simple.

This coral die-off is one of innumerable consequences that our Earth is already warning us with. It is not the only signal; it is one of many. But nothing that can't be monetized for an industry seems to get our attention around here. Instead, it appears we will have to look future generations in the eye and tell them that there was once a Great Barrier Reef, that it was one of the wonders of the world, and that we let it die to keep the fossil fuel industry happy.

It is time we woke up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

HEALTHCARE

Mr. ALEXANDER. Mr. President, for the sixth consecutive year, ObamaCare insurance rates are going up, and Democrats are already running around pointing fingers, trying to find someone else to blame.

About 10 days ago, the distinguished Democratic leader came to the floor and warned that, very soon, health insurance companies will be announcing rates for 2019 in each State across the country. He said that many health insurance companies will propose rate increases.

Today, several Democratic Senators held a press conference saying that insurance rates are going to go up in 2019. Well, they are exactly right. Insurance premiums are going to go up in 2019, just as they have for the 5 previous years of ObamaCare. But they are exactly wrong about who to blame.

The Democrats wrote the bill. They wrote ObamaCare, and they voted for ObamaCare—every single one of them. Not a single one of us voted for ObamaCare. They wrote the bill. If they are looking for someone to blame, they should look in the mirror.

Running around, pointing fingers, and trying to find someone else to blame is a little like selling somebody a house with a leaky roof and then blaming the new owner for the leaky roof. Democrats built the house with the leaky roof. They built these insurance markets—the individual markets, where no one can find insurance. They wrote the sloppy law. They failed to make the markets competitive, and they erased the ability of consumers to have choices. They didn't follow the law when they paid out cost-sharing payments that were designed to help low-income Americans pay for their out-of-pocket expenses, and—this is the very worst—when Republicans were prepared 1 month ago to stabilize these markets and, according to the Oliver Wyman healthcare experts, to lower rates by up to 40 percent over 3 years, the Democrats said no.

President Trump asked Speaker RYAN and he asked Senator MCCONNELL to put that bipartisan proposal in the omnibus spending bill that passed. The Republicans said yes, and the Democrats said no. So the rates are going up because Democrats wrote the law, and they said no to lowering the rates.

What Democrats don't say—but every American should know very well—is that health insurance rates didn't start increasing when President Trump took office 15 or 16 months ago. Insurance rates have been increasing since ObamaCare took effect more than 5 years ago.

In 2010, there was a big discussion at the Blair House. I was invited to make the Republican case for President Obama, who stayed there all day and listened.

I said: Respectfully, Mr. President, the Affordable Care Act will not work. I said directly to him that ObamaCare would send an unfunded Medicaid mandate to States. It did.

I said: It will cut Medicare by one-half trillion dollars. It did.

I said: There will be new taxes in it. There were.

I said: It will mean that for millions of Americans, premiums will go up because when people pay those new taxes, premiums go up, and they will also go up because of the government mandates—and they have, for 5 years. Now the Democrats are pointing out that their law, which they passed, will cause rates to go up for the sixth consecutive year.

Back in 2010, I said: Our country is too big, too complicated, too decentralized for Washington, DC—just a few of us here—to write a few rules about remaking 17 percent of the economy all at once. That is the size of the healthcare economy. That sort of thinking works in the classroom, but it doesn't work very well in the big, complicated country which is the United States of America. Since the

ObamaCare exchanges opened in 2014, history has proved this—what I said—to be right.

The Affordable Care Act has not worked the way Democrats promised. It certainly hasn't worked that way for Marty, a farmer in Tennessee who stopped me at a Chick-fil-A last December. She wanted to tell me that before ObamaCare her rates were $300 a month. She is in the individual market. She doesn't get a subsidy. She pays these rates herself. This year, it is $1,300. Next year, it will be more.

Rates in Tennessee for people like Marty went up 58 percent this past year. That is a lot of money. People can't afford it. She is one of thousands of others in Tennessee who have seen their premiums increase 176 percent since 2013, the year before the ObamaCare marketplaces opened.

The Affordable Care Act hasn't worked for the 9 million Americans, like Marty, who purchased their health insurance in the individual market and received no government subsidy. They have been hammered by skyrocketing insurance premiums, and Democrats come to the floor and say: Well, they are going up for the sixth straight year.

If I were them, I would want to keep it quiet. But, no, they are looking for somebody to blame. They don't want to look in the mirror. They wrote the bill. They are the reason the rates are going up. They have rejected any reasonable attempt to change the law. They will not even support changes that they are for—that they know aren't working.

The Affordable Care Act does not work because it is too Washington, DC, focused. It has made insurance too expensive, and it is hurting the American people. So last year, Republicans tried to repeal the law to help make health insurance work again for people like Marty, the farmer I met at Chick-fil-A. We came up short.

While I hope that Senators GRAHAM and CASSIDY can build a coalition to try again, there is still the urgent problem of skyrocketing ObamaCare premiums. It did not have to be this way. The Senator from Washington, Mrs. MURRAY—the lead Democrat on the Senate HELP Committee—and I last year announced that we would hold hearings to see if there were steps Congress could take to stabilize and strengthen the individual health insurance markets so that Americans could buy insurance at affordable prices in 2019.

President Trump called me in August of last year, and he asked me to work with Senator MURRAY to try to come up with a temporary solution so people who were hurt by the skyrocketing ObamaCare prices would not be hurt while Congress concluded what to do in the long term. In September, our committee hosted four bipartisan hearings. We invited all of the Senators to come to meetings before the hearings. We had about half of the Members of the Senate involved in those meetings and hearings. Out of those meetings and hearings, we came up with three proposals that Congress could pass that would temporarily lower rates over the next 3 years, according to Oliver Wyman, one of the most well-respected healthcare experts in the country, by up to 40 percent over those 3 years.

No. 1, our proposal had 3 years of reinsurance grants at $10 billion a year so States could create funds to insure the needs of the very sick. You take the very sick out of the pool, care for them, and then you can lower the rates for everyone in the individual market. That is 3 years and $10 billion a year. That was the first proposal.

No. 2 is 3 years of cost-sharing reduction subsidies to help low-income Americans pay out-of-pocket expenses. It is counterintuitive, but when you pay those expenses, you actually lower the deficit. You lower the cost to taxpayers because it lowers the premiums, and that lowers the subsidies. You actually save taxpayer money when you pay those 3 years of cost-sharing subsidies.

No. 3, we took a provision that is in the Affordable Care Act called the innovation waiver—it was already there, and it wasn't working—and we agreed to streamline it so that it would work and the State might make an application and say we have a better idea.

We said: You can't change the essential health benefits and you can't change the prohibition on lifetime limits. You still have to give people an offer of insurance if they have a preexisting condition. All of those provisions and protections were still in our bill, but that new flexibility would have allowed Iowa and other States to increase their choices and lower premiums. It would have allowed New York, Minnesota, and New Hampshire to do things their Democratic Senators said they badly wanted to do and their Governors said they badly wanted to do.

There was new authority for a catastrophic insurance policy with lower premiums and higher deductibles that people could choose. That was in there too. This is the package that the Oliver Wyman expert said if you are a contractor and you are making $60,000 and your insurance is $20,000, it could reduce your premium from $20,000 to $12,000 over 3 years. That was the package.

Almost all Democrats liked those three ideas. The truth is, a lot of Republicans and conservative groups were skeptical about them because they said it would ''shore up ObamaCare.'' But the Congressional Budget Office said that if the scoring reflects the cost-sharing payments being paid, our proposal would actually save taxpayer dollars by lowering premiums and, therefore, lowering subsidies.

So this would sound like a very good proposal; wouldn't it? It is something that at one point Democratic leaders said every Democrat could vote for, something that more than half of the Senate participated in—reinsurance, cost-sharing subsidies, and more flexibility without changing the basic guarantees of the Affordable Care Act. That sounds very much like a proposal that might come from the other side of the aisle, not the Republican side of the aisle. Yet, on the Saturday before we passed the omnibus spending bill, President Trump called Speaker RYAN and Senator MCCONNELL and said: Will you please put that provision in the omnibus spending bill?

They said yes. The Democrats said no.

The Democrats have written this ObamaCare bill, which for 6 years has raised rates. Then, we come up with a proposal that every Democrat should like, and they say no. They will not even support changing one sentence of a law, even if it changes parts that don't work and that they are for.

What was their reason? Here is their reason. They would not apply to our proposal the traditional Hyde compromise language regarding Federal funding for elective abortions. What that basically says is that there may be no Federal funding for elective abortions, but States may do what they want. That has been the compromise since 1976. Since 1976, in every omnibus appropriations bill, Democrats have voted for that. In fact, all those weren't omnibus bills. Some of them were different appropriations bills. Since 1976, in every appropriations bill, Democrats have voted for the Hyde amendment. In the omnibus appropriations bill that we passed a month ago, Democrats voted for the Hyde amendment more than 100 times in other proposals, but they would not vote to lower health insurance rates by 40 percent over 3 years.

I will say that again. Even though they voted for the Hyde language every year since 1976 and voted for it 100 times in the omnibus bill, they would not vote for it. They would not vote for our proposal to lower rates even though it was bipartisan because they didn't want to apply that same compromise Hyde amendment to health insurance.

Howard Baker, the Senate majority leader, once said that the essence of Senate leadership is becoming an eloquent listener. That means hearing and understanding what people have to say because what they are saying is not always what they mean.

My conclusion is that, by their words and by their actions, what Democrats really were saying is this: We will not change one sentence of ObamaCare, even the parts that obviously are not working and even when most of the Democrats would support the policy and the changes.

Given the Democrats' attitude, I know of nothing that Republicans and Democrats can agree on to stabilize the individual health insurance market. I know of nothing.

No one regrets Congress's failure to reach an agreement on this more than

I do. I ran for the U.S. Senate because I wanted to achieve bipartisan results on important issues. I have often been able to do that, but I literally struck out here.

When Democrats blocked these proposals from being included in the omnibus in March, I said: ''Now let's look down the road . . . insurance companies will announce their rates for 2019 . . . and rates will continue going up instead of going down.''

They are right about that. Already in the last few days, it has been announced that rates will go up in 2019. Millions of Americans will be hearing more about that. The Democrats could have worked with us to lower premiums by up to 40 percent. They instead chose to cling to an unworkable law, to skyrocketing rates, and to reject any change that would have temporarily reduced rates, even though the President and the Republican leaders were willing to support ideas that the Democrats, as a matter of policy, almost unanimously support.

For relief, we will have to turn to the Trump administration and to the States. I am encouraged by Labor Secretary Acosta's proposed rule on association health plans. It would help some self-employed Americans, like Marty, the farmer, and employees of small companies to buy the same kind of insurance with the same lower cost and the same protections that roughly 160 million Americans who work for large employers have today. In other words, if you work for IBM, you in effect get about a $5,000 average tax break because of the way the tax law applies to employer insurance. We would like to give the same opportunity to the self-employed and to people in small businesses.

The Trump administration has also proposed a rule that would reaffirm the role of States in regulating short-term health insurance and that could provide a coverage option for Americans who are uninsured because plans in the Affordable Care Act markets are too expensive. Neither of these changes require the approval of Congress.

I am talking with Secretary Azar and Seema Verma, the Administrator of the Centers for Medicare and Medicaid Services, about other administrative actions they can take to give States more flexibility within the current law to help lower health insurance premiums, especially for the 9 million working Americans who do not receive a Federal subsidy in the individual market.

Those are the ones who are getting hammered. Those are the one whose rates we could have reduced by up to 40 percent over the next 3 years, but the Democrats said no.

I will be encouraging Governors and State insurance commissioners to do everything they can to repair the damage caused by the Affordable Care Act, but my own efforts as chairman of the HELP Committee will turn to other pressing healthcare issues, including the opioid crisis, overall healthcare costs, electronic healthcare records, prescription drug prices, and the 340B program.

Contrary to the Democratic leader's speech, this is not a crisis of Republicans' making. Democrats should look in the mirror. The last 5 years and the upcoming 6 years of premium increases are the fault of a law designed, drafted, and voted on exclusively by Democrats.

Last year, Republicans freed Americans from the individual mandate requirement, which was a tax on the poor that forced many Americans to buy insurance they couldn't afford or didn't meet their needs. We tried to provide even more freedom from this unworkable law, but, as I have detailed, Democrats said no.

If you have an insurance premium that is going up 40 percent next year, on top of the more than 105 percent increases since 2013, you can thank the Democrats. If you would like greater choice and an opportunity for lower premiums, you should support Republicans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

NOMINATION OF MICHAEL BRENNAN

Ms. BALDWIN. Mr. President, I rise this afternoon to urge my colleagues to oppose the confirmation of Michael Brennan to the U.S. Court of Appeals for the Seventh Circuit. By bringing Mr. Brennan's nomination forward without my support, Chairman GRASSLEY and Leader MCCONNELL are breaking with a longstanding Senate tradition that has guaranteed a voice for home State Senators, regardless of party, in the consideration of judicial nominees.

The blue slip is an important part of this institution and its historic respect for the rights of each Senator, as well as the rights of the minority party. As the chairman of the Judiciary Committee, Mr. GRASSLEY himself wrote in 2015:

> This tradition is designed to encourage outstanding nominees and consensus between the White House and home State Senators. Over the years, Judiciary Committee chairs of both parties have upheld a blue-slip process, including [most recently] Senator PATRICK LEAHY of Vermont . . . who steadfastly honored the tradition even as some in his own party called for its demise. I appreciate the value of the blue-slip process and also intend to honor it.

Today, respect for that time-honored blue slip comes to an end. Not only is Michael Brennan being considered on the Senate floor, but tomorrow the Senate Judiciary Committee will hold a hearing on a nominee for a traditional Oregon seat on the Ninth Circuit for whom neither Oregon Senator has returned a blue slip. I urge my colleagues to recognize that while today's action disrespects my role as the junior Senator from Wisconsin, tomorrow it may well be you. With the majority's choice to end this tradition, each of us is diminished in our own ability to represent the constituents who chose to send us here.

I did not return a blue slip for Michael Brennan because his nomination does not reflect the consensus between the White House and home State Senators that the chairman of Judiciary Committee, Mr. GRASSLEY, praised in 2015. Mr. Brennan did not receive the requisite support from Wisconsin's bipartisan judicial nominating commission, which has been used in some form for nearly four decades to identify candidates for Federal judgeships in my home State. Senator JOHNSON and I have worked to continue this longstanding process during my tenure in the Senate, and it has actually produced consensus nominees who have been confirmed to two vacancies on our district courts and for two U.S. attorney positions.

More troubling still is a fact made clear in Mr. Brennan's answers to the Judiciary Committee's questionnaire; namely, that President Trump never intended to respect that commission's work for this vacancy. The White House interviewed Michael Brennan for the job on the very day our bipartisan nominating commission began to solicit candidates for its consideration.

Chairman GRASSLEY has made an argument that the White House engaged me in meaningful consultation regarding this vacancy. It is true that White House Counsel Don McGahn called me to inform me that Mr. Brennan was the President's choice. I urged him, instead, to consider consensus nominees who could garner bipartisan support, including Donald Schott, who earned the requisite support of Wisconsin's nominating commission. He also garnered Senator JOHNSON's and my blue slips in the last Congress as well as the support of a bipartisan majority of the Senate Judiciary Committee. Sadly, he didn't come up for a confirmation vote due to obstruction in setting the calendar—a choice by the majority leader. Unfortunately, instead of nominating a consensus candidate, President Trump chose to move forward in a partisan manner on this vacancy.

Seven years ago, the U.S. Senate respected the prerogative of my colleague and my senior Senator, Mr. JOHNSON—then a newly elected Senator from Wisconsin—when he objected to a nominee for this very vacancy whose selection he had not had a role in. Mr. Brennan himself, at the time, coauthored an op-ed in our State's largest newspaper that praised Senator JOHNSON's refusal to return a blue slip for that nominee, Victoria Nourse. When President Obama made a second nomination for this position in 2016, I am confident Senator LEAHY would not have allowed that nominee, Donald Schott, to have advanced in the Judiciary Committee without my senior Senator's blue slip.

Today, I am not being accorded the same respect. Today, we send the message that neither this nor a future President needs to respect the role of home State Senators in the selection of judicial nominees. I urge my colleagues

to oppose this action and this nominee and this dispensing with a time-honored tradition of this institution.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL—PN1884

Mr. MCCONNELL. Mr. President, I ask unanimous consent that PN1884, the nomination of John Lowry III, of Illinois, to be Assistant Secretary of Labor for Veterans' Employment and Training, sent to the Senate by the President, be referred jointly to the Health, Education, Labor, and Pensions and Veterans' Affairs Committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that notwithstanding the provisions of rule XXII, the postcloture time on the Engelhardt nomination expire at 12 noon tomorrow, May 9, and the Senate vote on confirmation of the Engelhardt nomination with no intervening action or debate; further, that if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate resume legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE EXPLANATION

Mr. MERKLEY. Mr. President, I regret that, due to unforeseeable flight delays, I was unable to make it back here to Washington in time for the cloture vote on Kurt Engelhardt's nomination for the Fifth Circuit Court of Appeals. Had I been present, I would have voted against cloture.

His record on the district court is deeply troubling, particularly those concerning sexual harassment, religious discrimination, civil rights, and discriminating against women who choose to have children in the workforce—a right that should be open to every American woman without fear of losing one's job. In Mr. Engelhardt's court, ogling, groping, making suggestive comments, and talking about a woman's appearance do not constitute sexual harassment or a hostile work environment. In Mr. Engelhardt's court, a woman who is ordered by her doctor to be on bedrest can be fired 2 weeks after giving birth because ''the fact that Plaintiff's absences were caused by pregnancy does not dispense with the general requirement that employees must show up for work.''

Then there is Judge Engelhardt's extremely disturbing ruling overturning the convictions of five former New Orleans police officers in the Danziger Bridge case. This was a case that was described at the time as ''the most significant police misconduct prosecution since Rodney King,'' but Mr. Engelhardt overturned the convictions because three of the prosecutors wrote anonymous blog posts, even though the judge acknowledged that there was no evidence that any of the jurors had ever read these posts. Mr. Engelhardt's ruling in the Danziger Bridge case is exactly the kind of action that makes so many Americans distrust our criminal justice system and amplifies the racial inequalities that exist in it.

Too many Americans have been denied justice in Mr. Engelhardt's court for the Members of the U.S. Senate to reward and elevate him to a position of higher authority. Therefore, I would like it to be known on the record that I oppose Judge Engelhardt's nomination to serve on the Fifth Circuit Court of Appeals and would have voted in the negative had I been able to be here.

HONORING FIRST SERGEANT DAVID H. QUINN

Ms. HASSAN. Mr. President, today I would like to honor the life of U.S. Marine Corps First Sergeant David H. Quinn of Temple, NH.

In 1941, First Sergeant Quinn enlisted in the U.S. Marine Corps Reserves. He would train at Parris Island, SC, and Quantico, VA, before being assigned to a newly created amphibious tractor battalion based in Dunedin, FL, which was preparing for war in the Pacific Theater.

His unit brought him to San Diego, where he was promoted to first sergeant, and eventually to New Zealand for further training in amphibious assaults. It was there that he met Zoe Boeson, who was working to become a nurse. David and Zoe were married on June 28, 1943, just 4 months before his unit shipped out.

In 1943, with Company C, 2nd Amphibious Tractor Battalion of the 2nd Marine Division, First Sergeant Quinn arrived on Betio in the Tarawa Atoll as part of Operation Galvanic. The island was critical to the U.S. island-hopping campaign and also to the Japanese, who used it as a base for attacking U.S. Forces in the Central Pacific.

The marines successfully captured Betio, but 1,029 marines were killed and approximately 2,700 men wounded on what came to be known as bloody Tarawa. Among them was First Sergeant Quinn, who passed away on November 20, 1943. Though he and his new bride, Zoe, had spent just 4 months together prior to his death, she later remarked that they enjoyed more happiness in those 4 months than most people find in a lifetime.

Like many others, First Sergeant Quinn's remains were unidentified until 2016, when a DNA sample led to a positive match with his nieces. On May 4, 2018, nearly 75 years after his death, First Sergeant Quinn was reunited with his family and buried with full military honors back home in Temple, NH.

Though this expression of gratitude is long overdue, we must never miss an opportunity to thank those men and women in uniform who have put their life on the line to keep us safe, secure, and free. We must never forget their sacrifice.

I hope you will join me in honoring a brave Granite Stater, First Sergeant David Quinn. May he rest in peace.

TRIBUTE TO REAR ADMIRAL LEONARD C. DOLLAGA

Mr. DAINES. Mr. President, today I wish to recognize the service and achievements of an esteemed and valued member of our Armed Forces, RDML Leonard C. Dollaga, U.S. Navy, on the unanimous confirmation of his promotion on Thursday, April 26, 2018.

Over the past 2 years, I have had the pleasure of working with Admiral Dollaga in his capacity as Director of the Navy's Appropriations Matters Office. As the principal representative of the Secretary of the Navy and the Chief of Naval Operations to the Senate and House Appropriations Committees, he has provided invaluable support to Members and committee staff in presenting the budgetary needs of the Department of the Navy for our consideration and ensured timely and transparent communication flow to support Congress's enactment of appropriations for fiscal years 2017 and 2018. Throughout that time, Admiral Dollaga has provided superior support to me during a number of engagements with political and military leaders across the Asia-Pacific region. I would like to share with you some highlights of his fine career.

For the past 28 years, Admiral Dollaga excelled in leading our Navy's sailors aboard fast-attack and fleet ballistic missile submarines. He served sea tours on the USS *Los Angeles*, SSN 688; USS *Rhode Island*, SSBN 740 (Blue); and USS *Cheyenne*, SSN 773. He commanded USS *Charlotte*, SSN 766, followed by a command tour as commodore of Submarine Development Squadron Twelve, where he was in charge of nine fast-attack submarines and led the tactical development of the U.S. Submarine Force.

Ashore, his assignments enabled him to positively impact the submarine